

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 19 (SUBDIVISIONS) OF THE EL PASO MUNICIPAL CODE BY AMENDING CHAPTER 19.16 (IMPROVEMENT STANDARDS AND DESIGN PRINCIPLES) SECTION 19.16.050 (STORMWATER DESIGN) SUBSECTION 19.16.050.H (PRESERVATION OF NATURAL ARROYOS) TO REQUIRE THAT THE CITY PLAN COMMISSION DETERMINE WHETHER TO APPROVE A MODIFICATION OF CONDITIONS TO ALLOW IMPROVEMENTS ON NATURAL DRAINAGE COURSES KNOWN AS ARROYOS. THE PENALTY IS AS PROVIDED IN SECTION 19.04.190 OF THE CODE.

WHEREAS, the subdivision regulations for the City of El Paso have been established for the purpose of promoting the health, safety, morals and the general welfare of its citizens; and

WHEREAS, the subdivision regulations have been adopted in accordance with *The Plan for El Paso*; and

WHEREAS, the flood hazard areas of El Paso are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, these flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands; and

WHEREAS, there is a need to control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters and to control filling, grading, dredging and other development which may increase flood damage; and

WHEREAS, the amendment proposed herein is intended to vest the El Paso City Plan Commission with final determination on whether arroyos should be subject to manmade improvements which create higher water velocities and, in turn, increase hazard to life and property; and

WHEREAS, the El Paso City Council finds that the adoption of the amended subdivision regulations as herein enumerated vesting the City Plan Commission, a body comprised of nine individuals, with the determination on whether to approve a modification of conditions to Title 19, pursuant to 19.04.170 of the El Paso Municipal Code, is preferable to having a single individual determine such an important issue relating to life and property; and

WHEREAS, various City staff shall still provide recommendation as to whether a modification should be granted; and

WHEREAS, an added benefit will be the preservation of one of the richest and most diverse areas of plant and animal life found within the City of El Paso a path taken by other mountainous desert region cities such as Tucson and Phoenix Arizona; and

WHEREAS, the amendments herein are not intended to alter the existing Municipal Code requirement of Section 19.04.100 that Federal Emergency Management Agency (FEMA) requirements for stormwater drainage facilities shall control with respect to floodplain area, whenever conflict; and

WHEREAS, the amendments herein will have no negative impact upon the public health, safety, morals and general welfare of the City, and that the subdivision regulations as amended will carry out the purpose and spirit of the policies expressed in *The Plan for El Paso*,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That Chapter 19.16 (Improvement Standards and Design Principles) of Title 19 (Subdivisions) of the El Paso Municipal Code shall be and hereby is amended by deleting subsection 19.16.050.H (Preservation of Natural Arroyos), in its entirety and replacing as follows:

H. Preservation of Natural Arroyos. Arroyos shall be preserved in their natural state, except that a modification of such requirement may be granted by the city plan commission provided such modification both meets the requirements of 19.04.170 and is necessary to protect the public health, safety, or welfare. If a modification is authorized to allow improvements, the design for such improvements shall be incorporated into the subdivision improvement plans and approved by the ~~Deputy Director for Building Services~~city engineer. ~~For purposes of this subsection only, an “arroyo” shall mean an existing natural watercourse or other natural drainage system within the subdivision that conveys a one hundred year event flow.~~ As part of initial review of a subdivision application prior to acceptance as complete, the city engineer shall determine the area within which improvements will

require modification. The city engineer's determination shall be forwarded to the applicant and city plan commission which shall decide on any modification requested by the applicant.

2. Except as herein amended, Title 19 (Subdivisions) of the El Paso Municipal Code shall remain in full force and effect.

3. Nothing in this ordinance is intended to make or imply any determination or finding by the City Council, any City department or any City employee regarding the validity, construction, interpretation, administration, or enforcement of Section 19.16.050(H) as it existed prior to the adoption of this ordinance.

4. Nothing in this ordinance is intended to preclude the future amendment of the Municipal Code relating to arroyos arising out of the recommendations of the ad hoc committee appointed by Council or otherwise.

PASSED AND APPROVED this ____ day of _____, 2005.

THE CITY OF EL PASO

Joe Wardy, Mayor

ATTEST:

Richarda D. Momsen
Municipal Clerk

APPROVED AS TO FORM:

Matt Watson
Assistant City Attorney

05/10/05
16

Nunez, Diana

From: Charlie Wakeem [REDACTED]
Sent: Tuesday, May 10, 2005 4:18 PM
To: District #1; District #8; District #4; District #2; District #6; District #3; District #5; Rojas, Vivian; Mayors_Office; [REDACTED]
Subject: Fwd: Re: Arroyos in El Paso, Texas

Dear Mayor, Council & Mrs. Momsen:

This is the September, 2004 e-mail correspondence between USGS Chief Scientist Randall Schumann and me that I referred to at City Council Tuesday, May 10. Please note the definition Dr. Schumann uses for an "arroyo" in the first two sentences of his reply.

For your information, I do not oppose Representative Austin's proposed ordinance giving a narrower definition of an arroyo, as long as it is a stop-gap until a more comprehensive ordinance defining and establishing guidelines for protecting arroyos is completed by the Ad-hoc Arroyo Committee.

Cordially,
Charlie Wakeem

Cordially,
Charlie Wakeem

Note: forwarded message attached.

Charlie Wakeem
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

5/10/2005

Nunez, Diana

From: R. Randall Schumann [REDACTED]
Sent: Monday, September 27, 2004 10:41 AM
To: [REDACTED]
Subject: Re: Arroyos in El Paso, Texas

Charlie,

You are correct that "arroyo" is a spanish word for watercourse. Most geologists use the term more specifically to describe a stream, usually intermittent, that has cut a narrow, deep, gully with a flat floor and vertical or near-vertical walls. This is the definition used in Brandon Vogt's web discussion, which was a literature review of the subject of arroyos in the southwestern United States. The map showing generalized areas of arroyo formation as shaded areas, was adapted from:

Cooke, R.U., and Reeves, R.W., 1976, Arroyos and environmental change in the American Southwest: Oxford, Clarendon Press, 213 p.

This map was generalized and therefore the boundaries should not be taken as absolute. It is likely that some arroyos may exist in areas that were not shaded on Cooke and Reeves' map. I recommend that you refer to this publication for more detailed information.

Brandon Vogt is recently of Arizona State University. You can contact him through the university at brandon.vogt@asu.edu.

Randy Schumann
Chief Scientist, Earth Surface Processes Team
U.S. Geological Survey
[REDACTED]
[REDACTED]
[REDACTED]

Charlie Wakeem <[REDACTED]>
09/25/2004 12:21 AM
Please respond to charliewak

To: [REDACTED]
CC:
Subject: Arroyos in El Paso, Texas

Referring web page: <http://geochange.er.usgs.gov/sw/impacts/geology/arroyos/>

I am active in preserving arroyos in El Paso, Texas. I have been assisting the City of El Paso draft a new arroyo preservation ordinance, but there are those who use Brandon J. Vogt's article, "The Arroyo Problem in the Southwestern United States", as proof that there are NO arroyos in El Paso, since they are not discussed or shaded on the maps in this article.

I found that the Webster New Collegiated Dictionary defines arroyos as a Spanish word for, "Watercourse; also a small, dry stream or gully." A local geologist from the University of Texas at El Paso also describes arroyos as "intermittent streams" and that El Paso most certainly does

have them. Can you or Mr. Vogt please clarify this for me and tell me if, in fact, El Paso, Texas does or does not have arroyos, which are the dry watercourses that carry runoff from the Franklin Mountains to the Rio Grande?

Since the El Paso City Council will be reviewing this issue next Tuesday, September 28, your prompt response will be greatly appreciated.